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12 Attorneys for Plaintiff  
CHURCH OF SCIENTOLOGY INTERNATIONAL

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 FOR THE COUNTY OF MARIN

15 CHURCH OF SCIENTOLOGY )  
INTERNATIONAL, a California not- )  
16 for-profit religious corporation; )  
17 Plaintiff, )  
18 vs. )  
19 GERALD ARMSTRONG; MICHAEL WALTON; )  
THE GERALD ARMSTRONG CORPORATION, )  
20 a California for-profit )  
corporation; Does 1 through 100, )  
21 inclusive, )  
22 Defendants. )

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) CASE NO. 157 680  
) PLAINTIFF'S REPLY IN  
) SUPPORT OF MOTION FOR LEAVE  
) TO COMPLETE DISCOVERY;  
) REQUEST FOR SANCTIONS FROM  
) MICHAEL AND SOLINA WALTON  
)  
) [C.C.P. § 2024(e)]  
) DATE: December 16, 1994  
) TIME: 9:00 a.m.  
) DEPT: 1  
)  
) TRIAL DATE: May 18, 1995  
)

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DEC 14 1994  
HUB LAW OFFICES

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1 Defendants Michael and Solina Walton have responded to  
2 plaintiff Church of Scientology International ("the Church")'s  
3 motion to complete discovery by arguing, simultaneously, that the  
4 discovery cut-off should not be extended, and that Solina Walton  
5 is prejudiced because she has not been permitted to conduct  
6 discovery. The result of this inherently inconsistent argument  
7 is a brief so confused as to be nearly unintelligible. Plaintiff  
8 stands on the arguments raised in its moving papers, and responds  
9 briefly to Waltons' arguments, as follows.

10 **A. This Motion Must Be Decided By The Court**

11 Walton's objection that plaintiff should have brought this  
12 motion to the discovery referee is meritless. The discovery  
13 referee in this matter has limited authority; only the Court has  
14 jurisdiction to grant leave to complete discovery proceedings  
15 pursuant to C.C.P. §2024(e). This is not simply a "discovery  
16 dispute," covered by the reference. It is a request that a  
17 deadline imposed by statute be extended.

18 **B. Plaintiff Requires An Opportunity To Appraise The**  
19 **Property**

20 Waltons' characterization of this action as "just about  
21 money damages" is equally meritless. This is a fraudulent  
22 conveyance action. In August, 1990, Armstrong gave the Fawn  
23 Drive Property to Michael Walton; Walton proceeded to attempt to  
24 transfer the property to his wife Solina on 4 different occasions  
25 with 4 different legal documents. Armstrong's transfer of the  
26 Property included the transfer to Michael Walton of considerable  
27 cash as well. Armstrong followed his conveyances by a series of  
28 deliberate breaches of his agreement with plaintiff, each of



1 which carried a price tag in liquidated damages of \$50,000.  
2 Entitlement to, and the value of, the Fawn Drive property are  
3 very much in dispute in this action. The requested inspection is  
4 routine, and authorized by the Code of Civil Procedure. C.C.P.  
5 § 2031.<sup>1</sup>

6 C. Walton Refused To Participate In A Meaningful Meet  
7 And Confer Even After This Motion Was Filed

8 By declaration, plaintiff's counsel has already recounted  
9 her attempts to contact Walton, and her inability to do so.<sup>2</sup>  
10 On the day after plaintiff filed this motion, Ms. Bartilson  
11 finally received a response to her letter of November 17,  
12 1994, requesting a meet and confer. That letter, dated November  
13 21, 1994, and sent only by U.S. mail, stated in relevant part:  
14 "Absent a court order, no representative of your client will be  
15 permitted entry into my home. . . . Be advised that I will  
16 oppose any motion to reopen discovery in the Marin action." [Ex.  
17 2 to Supplemental Declaration of Laurie J. Bartilson.]  
18

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19 <sup>1</sup> The Waltons concede that Solina Walton's deposition is  
20 necessary, and assert only that they don't wish to have her  
21 attend a deposition because of the discovery cut-off. [Oppo. at  
22 5] They have demonstrated no prejudice that would result to any  
party from the taking of Ms. Walton's deposition between now and  
April 18, 1995. None exists.

23 <sup>2</sup> No live person ever answers the telephone number which Mr.  
24 Walton places on his pleadings. [Supplemental Declaration of  
25 Laurie Bartilson, ¶ 7.] Many times Ms. Bartilson has called the  
26 number, and simply heard it ring indefinitely. Sometimes an  
27 answering machine responds. Often when it does, it is simply to  
28 inform the caller that it has run out of room on the tape, and no  
message can be received. [Id.] Moreover, Ms. Bartilson telefaxed  
the letter in question to the fax number provided by Mr. Walton.  
The fax transmission confirmation sheet is attached to her  
supplemental declaration as Exhibit 1. Walton's claims that he  
does not receive telephone calls or telefaxes are simply further  
evidence supporting plaintiff's request for sanctions.



1           The Waltons, then, completely refused to enter into any  
2 discussion of the issues raised by plaintiff's need for  
3 deposition and inspection, instead simply asserting that they  
4 would oppose any effort to resolve the problems without bothering  
5 the court.

6           **D.    The "Prejudice" Claimed By Solina Can And Should Be**  
7           **Cured By The Granting Of Plaintiff's Motion**

8           Plaintiff offered, on November 17, 1994, to stipulate with  
9 the Waltons to an extension of the discovery cut-off in this  
10 action until April 18, 1995, 30 days before the current trial  
11 date. This offer was an attempt to solve two problems:  
12 plaintiff's need to take the discovery requested here, and  
13 Solina's professed need to take discovery in order to defend the  
14 action. The Waltons refused this simple, and obvious, solution.  
15 The result is their convoluted, and inconsistent, argument that  
16 plaintiff's motion should be denied **because Solina Walton**  
17 **requires discovery.** On the contrary, Solina's claimed need for  
18 discovery is just another reason why plaintiff's motion must be  
19 granted.

20           **E.    Objections To Evidence Offered By The Waltons**

21           Plaintiff additionally objects to the evidence proffered by  
22 the Waltons along with their opposition on the following grounds:

23           \* Exhibit G, Declaration of Gerald Armstrong, is irrelevant,  
24 inflammatory, contains hearsay, and purports to authenticate  
25 documents not based on personal knowledge.

26           \* Exhibit H and Exhibit I are unauthenticated newspaper  
27 articles, not based on personal knowledge, not sworn, and  
28 hearsay.

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These exhibits should be stricken.

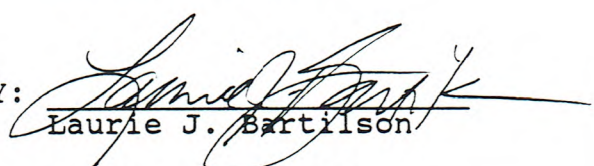
**CONCLUSION**

Trial in this case has been reset from September, 1994 to May, 1995. Permitting the parties to complete discovery on or before April 18, 1995 will prejudice no one; indeed, if the Waltons' argument for demurrer is to be believed, they require such relief. Their opposition is frivolous; their behavior prior to the bringing of this motion inexcusable. Plaintiff renews its request that its motion be granted, and the Waltons sanctioned.

Dated: December 13, 1994

Respectfully submitted,

BOWLES & MOXON

BY:   
Laurie J. Bartilson

Andrew H. Wilson  
WILSON, RYAN & CAMPILONGO

Michael Lee Hertzberg

Attorneys for PLAINTIFF  
CHURCH OF SCIENTOLOGY  
INTERNATIONAL





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12 Attorneys for Plaintiff  
CHURCH OF SCIENTOLOGY INTERNATIONAL  
13

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF MARIN

16 CHURCH OF SCIENTOLOGY	)	CASE NO. 157 680
INTERNATIONAL, a California not-	)	
17 for-profit religious corporation;	)	SUPPLEMENTAL DECLARATION OF
	)	LAURIE J. BARTILSON IN
18 Plaintiff,	)	SUPPORT OF PLAINTIFF'S
	)	NOTICE OF MOTION AND MOTION
19 vs.	)	FOR LEAVE TO COMPLETE
	)	DISCOVERY AND REQUEST FOR
20 GERALD ARMSTRONG; MICHAEL WALTON;	)	SANCTIONS FROM MICHAEL AND
THE GERALD ARMSTRONG CORPORATION,	)	SOLINA WALTON
21 a California for-profit	)	
corporation; Does 1 through 100,	)	DATE: December 16, 1994
22 inclusive,	)	TIME: 9:00 a.m.
	)	DEPT: 1
23 Defendants.	)	
	)	TRIAL DATE: May 18, 1995

24  
25 LAURIE J. BARTILSON deposes and says:

26 1. My name is Laurie J. Bartilson. I am an attorney  
27 licensed to practice in the State of California, and I am one of  
28



1 the attorneys responsible for the representation of the plaintiff  
2 in this action, Church of Scientology International ("the  
3 Church"). I am also one of the attorneys responsible for the  
4 representation of the Church in the earlier action between these  
5 parties, former LASC No. 052395, which has now been consolidated  
6 into this action. I have personal knowledge of the facts set  
7 forth in this declaration and could competently testify thereto  
8 if called as a witness.

9       2. On November 17, 1994, I sent a letter to Mr. Walton,  
10 offering to stipulate to an extension of the discovery cut-off so  
11 as to allow the limited discovery still needed by the Church, and  
12 to permit Ms. Walton to take the discovery which Mr. Walton  
13 claimed she needed. The letter was sent by telefax and U.S. Mail.  
14 A true and correct copy of the telefax transmittal sheet which  
15 indicates that the letter was sent to Mr. Walton's fax machine  
16 and received by it is attached hereto as Exhibit 1.

17       3. I received no response to my November 17 letter.  
18 Thereafter, I made several telephone calls to Mr. Walton's  
19 office. Each time that the telephone was answered, I reached an  
20 answering machine with a message recorded by Mr. Walton. I left  
21 messages for Mr. Walton, asking him to return my calls so that we  
22 could meet and confer concerning this dispute. Mr. Walton did  
23 not return any of these calls. Several times I called his  
24 number, and did not even reach a machine. The telephone simply  
25 rang repeatedly.

26       4. On November 22, 1994, I sent a second letter to Mr.  
27 Walton, reiterating the need for cooperation on discovery  
28 matters. After sending the second letter, I again called Mr.



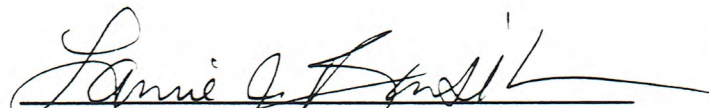
1 Walton's office. Again, I reached only a machine. This time, I  
2 was unable to leave a message. The machine informed me that his  
3 message tape was full.

4 5. On November 24, 1994, I received a letter from Mr.  
5 Walton. It had been sent by U.S. Mail only, and was dated  
6 November 21, 1994. A true and correct copy of that letter is  
7 attached hereto as Exhibit 2.

8 6. I have tried to contact Mr. Walton by telephone  
9 multiple times during the course of this litigation. In  
10 telephoning his office, I have never reached a live person. Many  
11 times, there has been no answer at all. At other times, I have  
12 reached his machine. Often, the machine has informed me that it  
13 is unable to take a message because it has run out of room on the  
14 tape.

15 I declare under the penalty of perjury under the laws of the  
16 State of California that the foregoing is true and correct.

17 Executed this 13th day of December, 1994, at Los Angeles,  
18 California.

19   
20 Laurie J. Bartilson

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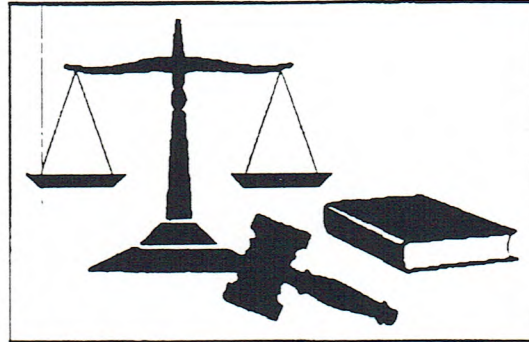




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**BOWLES & MOXON**  
 ATTORNEYS AT LAW  
 6255 SUNSET BOULEVARD  
 SUITE 2000  
 HOLLYWOOD, CALIFORNIA 90028

TELEPHONE (213) 463-4395  
 FACSIMILE (213) 953-3351



FAX COVERSHEET

DATE: Nov. 17, '94 TIME: \_\_\_\_\_

TO: Michael Walton FAX NO: \_\_\_\_\_

FROM: Laurie Bartilson \_\_\_\_\_

COMMENTS: re: CSI v Armstrong

There are 3 pages to this transmission, including this page.

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BOWLES & MOXON  
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6255 SUNSET BOULEVARD  
SUITE 2000  
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TIMOTHY BOWLES \*  
KENDRICK L. MOXON #  
LAURIE J. BARTILSON †  
HELENA K. KOBRIN ‡

(213) 463-4395  
TELECOPIER (213) 953-3351

\* ALSO ADMITTED IN OREGON  
# ALSO ADMITTED IN THE DISTRICT OF  
COLUMBIA  
† ALSO ADMITTED IN MASSACHUSETTS  
‡ ALSO ADMITTED IN FLORIDA

November 17, 1994

BY TELEFAX AND U.S. MAIL

Michael Walton, Esq  
700 Larkspur Landing Circle  
Suite 120  
Larkspur, CA 94939

P.O. Box 751  
San Anselmo, CA 94979

Re: Church of Scientology International v. Gerald Armstrong et al., Marin County No. 157 680

Dear Mr. Walton:

I am writing concerning plaintiff's demand to inspect the real property which is the primary subject of this lawsuit; that is, the house on Fawn Drive which Gerald Armstrong conveyed to you in August, 1990, and to which your wife now claims title. The demand was served on you and your wife, in a timely fashion, on October 27, 1994. In response, I have received an objection from you alone, which objects that the requested inspection violates your privacy, is irrelevant, burdensome, oppressive, "harassive," and not calculated to lead to the discovery of admissible evidence. You additionally recite C.C.P. § 2024(a) as grounds for your objection. I write this letter in the hope that we may resolve our differences and allow the requested discovery without a need for a motion to compel.

Mr. Walton, as you well know, the house and its value are central issues in this case. Plaintiff seeks this inspection in order to have the house appraised by a professional real estate appraiser. Such a request is hardly "irrelevant." In an action in which the main issues concern the fraudulent conveyance of cash and real property from Mr. Armstrong to you, it is both relevant and likely to lead to the discovery of relevant evidence. Nor would the requested inspection invade your "privacy;" I am certain that between us we can agree upon conditions that will allow the appraiser to complete his inspection in the least intrusive manner possible.



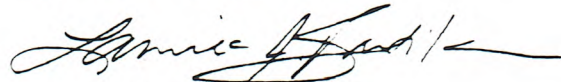
Ford Greene  
November 17, 1994  
Page 2

While relying for your objection here on C.C.P. § 2024(a), you have simultaneously filed a demurrer to the complaint against your wife in which you complain that she is prejudiced because she may not obtain further discovery. I propose that we solve both problems by stipulating to an extension of the discovery cut-off until thirty days before the presently-scheduled trial date, pursuant to C.C.P. § 2024(f). It seems that both of us consider that good cause exists for such an extension.

Please advise me promptly whether you will agree to an extension of the discovery cut-off, and whether you will permit an inspection of the Fawn Drive property. In the event that you are unwilling to extend the discovery cut-off so that plaintiff can inspect the property, I will be forced to file a motion for an extension pursuant to C.C.P. §2024(e). Your attention is directed to §2024(e)(4).

Sincerely,

BOWLES & MOXON



Laurie J. Bartilson

LJB:mfh

cc: Andrew H. Wilson, Esq.  
Michael Lee Hertzberg, Esq.  
Ford Greene, Esq.  
Paul Morantz, Esq.





**MICHAEL L. WALTON**  
ATTORNEY AT LAW  
700 LARKSPUR LANDING CIRCLE  
SUITE 120  
LARKSPUR, CA 94939  
(415) 456-7920

November 21, 1994

Ms. Laurie Bartilson  
6255 Sunset Boulevard  
Suite 2000  
Hollywood CA 90028

Re: CSI v. Armstrong #157 680

Dear Ms. Bartilson

I am in receipt of your letter dated November 14, 1994. I disagree with your conclusions stated therein regarding an "inspection" of my home. Should your client obtain a judgment against me which relates to 707 Fawn Drive, my objection to an evaluation might change.

Since real estate values continually fluctuate, the value of 707 Fawn Drive today may be different at the time of the conclusion of the trial some six to seven months from now. Absent a court order, no representative of your client will be permitted entry into my home.

You indicate receipt of my sole objection. If you examine your file you should find the additional objection by my wife. I include a copy herewith.

Be advised that I will oppose any motion to reopen discovery in the Marin action.

Very truly yours,

  
Michael L. Walton

MLW/  
cc: Ford Greene, Esq.  
Enclosure

1 PROOF OF SERVICE

2 I declare that I am employed in the City and County of San  
3 Francisco, California.

4 I am over the age of eighteen years and not a party to the  
5 within entitled action. My business address is 115 Sansome Street,  
6 Suite 400, San Francisco, California.

7 I am readily familiar with Wilson, Ryan & Campilongo's practice  
8 for collection and processing of correspondence by hand delivery and  
9 by mailing with the United States Postal Service.

10 On December 14, 1994, I served the attached **PLAINTIFF'S REPLY**  
11 **IN SUPPORT OF MOTION FOR LEAVE TO COMPLETE DISCOVERY; REQUEST FOR**  
12 **SANCTIONS FROM MICHAEL AND SOLINA WALTON** on the following in said  
13 cause, by placing for deposit with Lightning Express Messenger  
14 Service on this day in the ordinary course of business, true copies  
15 thereof enclosed in sealed envelopes. The envelopes were addressed  
16 as follows:

17 Ford Greene, Esq.  
18 HUB LAW OFFICES  
19 711 Sir Francis Drake Blvd.  
20 San Anselmo, California

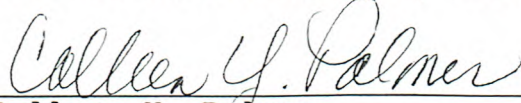
Michael Walton  
707 Fawn Dr.  
San Anselmo, CA 94960

21 I also served the attached on the following in said cause, by  
22 placing for delivery with the United States Postal Service on this  
23 day in the ordinary course of business, true copies thereof. The  
24 envelope was addressed as follows:

25 Paul Morantz  
26 P.O. Box 511  
27 Pacific Palisades, CA 90272

28 I declare under the penalty of perjury under the laws of the  
State of California that the foregoing is true and correct.

Executed at San Francisco, California on December 14, 1994

  
Colleen Y. Palmer